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Sent: Tuesday, November 16, 2010 4:14 PM

To: Alemi, Manucher

Cc: Juliet Christian-Smith; dceppos@ccp.csus.edu

Subject: Follow-Up to Last Week's Meetings on Ag Water Measurement

Manucher --

Following the ASC meetings last week, there are a few issues that we would like to raise for the review of DWR staff and counsel:

- 1) Regarding exception A in the one-page hand-out: Approximately what percent of the total volume of water delivered to rice fields does exception A represent? Put another way, what are the relative proportions of initial irrigation flows (to be measured) and flow-through or maintenance flows, including post-season flooding for stubble decomposition (which may go unmeasured)? Is there reliable data available upon which a generalization for California's rice growing region can be made? In our view, the Act's requirement for the measurement of deliveries of water to customers cannot be construed to allow more than *de minimus* flows to go unmeasured.
- 2) Regarding exception B: We believe that the 2009 Act has to be read to cover all deliveries to "customers", and that irrigators making payments to an agricultural water supplier are certainly its customers. (Some customers may even receive water without paying, but certainly all who pay are customers.) Some irrigators may make payments to both a ditch company and an irrigation district covered by the Act. Simply being served by a ditch company does not necessarily mean that an irrigator is not a customer of the agricultural water supplier delivering water to the ditch company, particularly if the irrigator is located within the exterior boundaries of the district and is being charged by the irrigation district in any way, including annual assessments.
- 3) In the event that DWR makes a determination that certain ditch companies in existence in 2009 are themselves the customer of an agricultural water supplier covered by the Act, and that the ditch company's individual irrigators have no customer relationship with the covered agricultural water supplier, the Department should be mindful not to create a loophole that will encourage the establishment of new ditch companies as a device to avoid compliance with the Act. Any exception that DWR may be contemplating (and we are not recommending any such exemptions at this time) should be limited to mutual water companies and/or other private irrigation works that existed at the time of the Water Conservation Act's enactment.

Also, could you please let us know the time and number to call on November 30 for the A2 meeting? Thanks.

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